MONTANA LEGISLATIVE HISTORY

Chapter 22 19 85

Bill H 88 S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	1/14	✓ C	Hearing Date(s)	1/30	✓ C
	1/14 ~~1/30~~	✓ C		1/30	✓ C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ✓ No

Committee _____ Report _____

1/07	INTRODUCED		
1/07	REFERRED TO BUSINESS & LABOR		
2/13	HEARING		
2/13	COMMITTEE REPORT-BILL DO PASS		
2/16	2ND READING PASS	89	3
2/18	3RD READING PASS	92	5
	TRANSMITTED TO SENATE		
2/19	REFERRED TO BUSINESS & INDUSTRY		
3/08	HEARING		
3/08	COMMITTEE REPORT-BILL CONCURRED		
3/11	2ND READING CONCURRED	31	6
3/13	3RD READING CONCURRED	42	8
	RETURNED TO HOUSE		
3/15	SIGNED BY SPEAKER		
3/15	SIGNED BY PRESIDENT		
3/18	TRANSMITTED TO GOVERNOR		
3/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 117 EFFECTIVE DATE: 3/20/85		

HB 86 INTRODUCED BY KOEHNKE, FRITZ, ET AL.
MAKING PASSING SCHOOL BUS RECKLESS DRIVING

1/07	INTRODUCED		
1/07	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/11	FISCAL NOTE REQUESTED		
1/16	FISCAL NOTE RECEIVED		
2/05	HEARING		
2/08	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/09	2ND READING PASS	96	1
2/12	3RD READING PASS	96	1
	TRANSMITTED TO SENATE		
2/13	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/12	HEARING		
3/13	COMMITTEE REPORT-BILL CONCURRED		
3/15	2ND READING CONCURRED	48	0
3/18	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/23	SIGNED BY SPEAKER		
3/23	SIGNED BY PRESIDENT		
3/25	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 221 EFFECTIVE DATE: 7/01/85		

HB 87 INTRODUCED BY QUILICI
ALLOW MILITARY AFFAIRS TO AUTHORIZE FEDERAL BUILDINGS - ALLOW DOA TO DO CONTRACTING
BY REQUEST OF DEPARTMENT OF MILITARY AFFAIRS

1/07	INTRODUCED		
1/07	REFERRED TO STATE ADMINISTRATION		
1/09	HEARING		
1/09	COMMITTEE REPORT-BILL DO PASS		
1/12	2ND READING PASS	90	0
1/14	3RD READING PASS	94	1

	TRANSMITTED TO SENATE		
1/15	REFERRED TO STATE ADMINISTRATION		
1/24	HEARING		
1/24	COMMITTEE REPORT-BILL CONCURRED		
1/25	2ND READING CONCURRED	49	0
1/28	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
1/30	SIGNED BY SPEAKER		
1/31	SIGNED BY PRESIDENT		
1/31	TRANSMITTED TO GOVERNOR		
2/04	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 7 EFFECTIVE DATE: 2/04/85		

HB 88 INTRODUCED BY KEYSER
AUTHORITY OVER AND POWERS OF PEACE OFFICER HELPING ANOTHER JURISDICTION
BY REQUEST OF BOARD OF CRIME CONTROL

1/07	INTRODUCED		
1/07	REFERRED TO JUDICIARY		
1/14	HEARING		
1/17	COMMITTEE REPORT-BILL PASS AS AMENDED		
1/19	2ND READING PASS	82	2
1/21	3RD READING PASS	94	2
	TRANSMITTED TO SENATE		
1/22	REFERRED TO JUDICIARY		
1/30	HEARING		
2/01	COMMITTEE REPORT-BILL CONCURRED		
2/02	2ND READING CONCURRED	45	1
2/05	3RD READING CONCURRED	46	1
	RETURNED TO HOUSE		
2/08	SIGNED BY SPEAKER		
2/08	SIGNED BY PRESIDENT		
2/08	TRANSMITTED TO GOVERNOR		
2/11	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 22 EFFECTIVE DATE: 10/01/85		

HB 89 INTRODUCED BY GILBERT
MODIFY DISPLAY OF SPECIAL FUEL PERMIT BY MONTANA BASED PROPORTIONAL CARRIER

1/07	INTRODUCED		
1/07	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/29	HEARING		
1/30	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/01	2ND READING PASS	97	0
2/02	3RD READING PASS	89	0
	TRANSMITTED TO SENATE		
2/06	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/12	HEARING		
3/13	COMMITTEE REPORT-BILL CONCURRED		
3/15	2ND READING CONCURRED	48	0
3/18	3RD READING CONCURRED	49	0

HOUSE BILL NO. 88

INTRODUCED BY KEYSER

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT WHILE A PEACE OFFICER IS IN ANOTHER JURISDICTION WHICH HAS REQUESTED HIS ASSISTANCE HE IS UNDER THE AUTHORITY OF THE ENTITY REQUESTING HIS ASSISTANCE AND MAY ACT AS IF HE WERE A PEACE OFFICER OF THAT ENTITY; AMENDING SECTION 44-11-101, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-11-101, MCA, is amended to read:

"44-11-101. Mutual assistance authorized -- powers and duties of assisting officers. A peace officer or any law enforcement entity of any county or municipality or a state government law enforcement entity may request the assistance of a peace officer from another law enforcement entity within the state of Montana. A peace officer, while in the jurisdiction of the requesting officer or entity and while on such request for assistance, has the same powers, duties, rights, privileges, and immunities as a peace officer of the requesting entity, is under the authority and supervision of the requesting officer or entity, and may act as though he were a duly appointed and qualified peace officer of the entity he is assisting."

-End-

INTRODUCED BILL

HB 88

(To be kept current -- post bills when entering, being heard or leaving committee.)

Form CS-32

STATUS SHEET

FORTY-NINTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 4	1/7/85	1/8/85	1/8/85			1/8/85			
HB 16	1/7/85	1/22/85							
HB 17	1/7/85	2/14/85 2/22/85	2/22/85		2/22/85				
HB 40	1/7/85	1/28/85	2/20/85		2/13/85				
HB 47	1/7/85	(died in committee)							
HB 48	1/7/85	(died in committee)							
HB 50	1/7/85	1/10/85 1/11/85	1/11/85		1/11/85				
HB 53	1/7/85	1/14/85	1/17/85	(TRANSFERRED TO		LOCAL GOVERNMENT)			
HB 69	1/7/85	1/10/85 1/11/85 1-28-85	(TABLED - 1/11/85)		1/25/85				
HB 83	1/7/85	1/11/85 1/8/85	1/11/85	1/11/85					
HB 88	1/7/85	1/14/85 1/17/85	1/17/85			1/17/85			
HB 95	1/7/85	1/16/85 2/20/85	2/20/85		2/20/85	(AS AMENDED)			
HB 103	1/7/85	1/9/85 1/15/85	1/15/85			1/15/85			
HB 106	1/7/85	1/10/85 1/11/85	1/11/85	(WITHOUT	RECOMMI	NDATION)			
HB 109	1/7/85	1/8/85	1/8/85	1/8/85					
HB 111	1/7/85	1/22/85	1/22/85			1/22/85			

Use a separate sheet for Senate, House Bills, and Resolutions

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 14, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Monday, January 14, 1985 at 10:00 a.m. in Room 312-3 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Representative Krueger who was previously excused by Chairman Hannah.

HOUSE BILL NO. 88: Hearing commenced on HB 88 (Authority over and powers of peace officer helping in another jurisdiction). Representative Keyser, chief sponsor of the bill, testified in its support. He stated that this act would provide that while a peace officer is in another jurisdiction which has requested his assistance, he is under the authority of the entity requesting his assistance. He offered an amendment which reads: "starting at line 22 after 'authority' strike 'and supervision'." (See Exhibit A) He said that direct supervision would be given to the commanding officer.

Clayton Bain, a member of the Montana Board of Crime Control, spoke in support of the bill. Mr. Bain pointed out to the committee the additions made to the bill as to when the peace officer has the same powers, duties, rights, privileges, and immunities as a peace officer of the requesting entity; and the officer is under the authority and supervision of the requesting officer or entity. He informed the committee that the bill has been approved by the Highway Patrol and the Montana Peace Officers Association.

There being no further proponents or opponents, Representative Keyser closed. Chairman Hannah opened the floor up for discussion on HB 88.

Representatives Addy and Bergene both questioned the civil liability the requested officers would have. Mr. Bain stated that this bill clarifies the authority question. Representative Addy questioned why the bill is really needed and why this bill would not require the officers to be subject to supervision of the requesting entity but give them further authority instead.

Representative Gould asked the question that in the event that a riot took place at the state prison, would the peace

officers requested come under the supervision of the Department of Institutions or the sheriff of Deer Lodge? Representative Keyser assumed they would act under the supervision of the warden.

Representative Mercer had some questions relating to line 22 of the bill. He feels this portion of the bill is confusing. He further stated that he is unclear as to whether the peace officers would come under the authority of the requesting officer or whether or not they have the authority. Representative Mercer feels that it should be clear as to who is going to be held liable in case an officer gets hurt, etc. He also brought up the point that a higher authority, under this bill, could be under the authority of a lesser authority. Mr. Bains stated that the person requesting the service should certainly expect the requested officer to act under his supervision.

Mr. Bains also pointed out that there are no formal agreements between the officers before assuming a particular assignment. Presently, the requesting officer informs the officers of their duties.

There being no further discussion, Chairman Hannah closed the hearing on HB 88.

CONSIDERATION OF HOUSE BILL NO. 53: (Limiting consent to annex to signers of the consent time) Hearing commenced on HB 53 with chief sponsor, Representative Tom Hannah, testifying in support of it. He informed the committee members that there are some problems with the bill in its present form. He feels the bill is much broader than what he intended it to be. He said that it was not his intention to repeal section 7-13-4314. His intention deals with the waiver that the city of Billings and other cities have. In the case of Billings, when someone is building on a plot, in order to get a building permit, they have to sign a paper agreeing that if any special improvement districts arise, they cannot protest. He feels that this is an unfair practice and that the people should, in fact, have the right to protest. (See Exhibit B)

There were no further proponents or any opponents of the bill.

Acting chairman, Dave Brown, opened the floor up for discussion on this bill. Representative Eudaily had a question about the inconsistency of section 3 of the bill. Representative Hannah stated that he didn't have any problems with the city's requirement to annex before services are given.

Acting Chairman Brown informed the committee that some of the questions pertinent to HB 53 could be hashed out among themselves. Further discussion will be had during the executive session.

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1/17/85 BILL NO. HB 88 TIME 10:05

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene		✓
John Cobb		✓
Paula Darko		✓
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady		✓
Joe Hammond		✓
Kerry Keyser	✓	
Kurt Krueger	✓	
John Mercer	✓	
Joan Miles	✓	
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Eudaily moved that the following amendment be made to HB 88. The motion was seconded by Rep. Rapp-Svrcek and carried 11-7.

On line 22, strike the words, "and supervision".

CS-31

Ex. F
HB. 88
1-14-85

TO: Chairman and members of the House Judiciary Committee

Amendment to House Bill 88

Starting at line 22 after "authority" strike "and supervision"

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 17, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Thursday, January 16, 1985 at 9:00 a.m. in Room 312-3 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HB 157: Hearing commenced on HB 157. Representative Steve Waldron, chief sponsor of the bill, testified in its support. He said the bill does several things. It deals with the mandatory liability insurance for vehicles. He feels that a mistake was made when vehicle owners were not required to obtain a proof of compliance insurance card when registering his vehicle.

Representative Waldron informed members that under the present system, judges are suspending the sentences of those who are charged with not have this liability insurance. The vehicle owners are simply being admonished to obtain the needed insurance in exchange for a suspended sentence. This bill would make a fine mandatory and suspension of driver's licenses mandatory. The fine would be increased to $300 and the driver's license would be suspended for 30 days with no provision for a restricted probationary license. With regard to those on a limited income, Representative Waldron feels that these people will find a way to obtain insurance since they find a way to obtain licenses and other motor vehicle expenses. He stated that driving is a privilege -- not a right. This bill would simply insure compliance with the law.

Representative Waldron said that a person must carry in the vehicle an insurance card as proof of compliance. Under this bill, failure to do so would result in a $25.00 fine.

Larry Majerus, Administrator of the Motor Vehicle Division in Montana, testified neither in support nor opposition to the bill. He offered an amendment that would bring the language in conformity with chapter 11. Mr. Majerus informed the committee that they are presently receiving the back of a ticket from the court. We may in lieu of that, receive an abstract court record. Mr. Majerus said that a fiscal note is being prepared for this bill.

Larry Tobiason, representing the Montana Auto Association, testified in favor of the bill. He told members that 88% of the association is in favor of bills dealing with this subject.

Representative Waldron stated that he has no exact figure but assumes there are numerous cases.

Mr. Majerus informed the committee that the Highway Patrol cited somewhat under 5,000 people for insurance non-compliance last year.

Representative Hannah wondered if the bill would really accomplish much. He said that a lot of people, even though they have had their licenses suspended, drive in spite of it. Mr. Majerus said it has been established by the Presidential Commission on Drunk Driving that the most effective way of dealing with drunk drivers is to suspend their driver's licenses.

Representative Montayne introduced the idea of requiring vehicle owners to place a sticker on the window of their car that would indicate that they do, in fact, have insurance. If the sticker wasn't displayed, the vehicle owner would be fined. Representative Waldron feels that it would be more appropriate to take the owner's driving privilege away for a time, but he said the sticker idea was a thought. His main concern is that by taking away the driving privilege, the compliance would get much greater.

Hearing closed on HB 157. At this time, Chairman Hannah led the committee into executive session.

ACTION ON HB 157: Representative Brown moved that HB 157 DO NOT PASS. The motion was seconded by Representative Montayne. Discussion followed. Representative Brown stated that he had difficulty in the enforcement area of the bill. He feels the penalties as provided for in the bill are extremely steep.

Representative Addy made a substitute motion that the bill BE TABLED. He feels the bill should not be ignored completely at this time. Representative Brown withdrew his prior motion for a do not pass and seconded the substitute motion to table the bill. The question was called, and the motion passed unanimously.

ACTION ON HB 88: Representative Keyser moved that HB 88 DO PASS. Motion was seconded by Representative Brown and discussion followed. Representative Eudaily moved that an amendment be made on line 22 by striking, "and supervision". The motion was seconded by Representative Rapp-Svrcek. Representative Addy stated his opposition to the motion because he felt the bill would eliminate the control the requesting officer would have over the assisting officer. He feels the language should be left as is.

While Representative Rapp-Svrcek stated he had a problem with the bill, he opposes Representative Addy's suggestion to leave

the language as is. He feels that removing the "and supervision" language may lessen the conflict. Representative Keyser stated that the real crucial language is "under the authority." He stated his support for the amendment to delete the "and supervision" portion of the bill. A roll call vote was taken on the motion, and it carried 11 to 7.

Representative Gould moved that an additional amendment be made to the bill on line 23 by striking the word, "may" and inserting in lieu thereof the word, "shall". The motion was seconded by Representative Montayne. Representative Mercer stated that he was the one who proposed this amendment in the first place; however, he sees a problem with it now. He made a substitute motion to amend page 1, line 23 by striking, ", and" through "assisting" on line 25. Representative Mercer thinks this language is unnecessary. The motion was seconded by Representative Keyser. Representative Eudaily pointed out that the title should also be amended accordingly to conform with the above amendment. The substitute motion of Representative Mercer's to amend was carried unanimously.

Representative Keyser moved that HB 88 DO PASS AS AMENDED. The motion was seconded by Representative O'Hara and discussion followed. Representative Addy expressed that his initial concern was if the bill would limit the statute that now prohibits use of a highway patrol officer in labor disputes. Since the last hearing on this bill, he researched the issue, and it is now clear to him that this bill in no way limits the present prohibition on use of highway patrol officers in labor disputes.

The question was called, and the motion for a DO PASS AS AMENDED carried with Representatives Brown, Addy and Rapp-Svrcek dissenting.

ADJOURN: Upon motion of Representative Keyser and having been seconded, the meeting adjourned at 10:10 a.m.

Tom Hannah

TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1-17-85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

NORMAL SCHEDULE=> SITE: OLD SUPREME COURT ROOM DAYS: M-TU-W-TH-F TIME: 10:00 A.M.-12 NOON SECRETARY-STALEY, CINDY

--BILL NO---	--REFER DATE---	--HEARING DATE---	--CONSIDERATION DATES----------	--COMMITTEE ACTION----------	--REREFERRED TO COMM----	--DATE OUT-
HB0013 KENNERLY, ROLAND F.	1/14	2/13	REVISING FILING REQUIREMENTS FOR STATE/TRIBAL COOPERATIVE AGREEMENTS	CONCUR		2/13
HB0044 WALDRON, STEVE	1/15	3/11	3/13 REQUIRE PAYMENT OF VICTIM COUNSELING BY OFFENDER; RAPE OR INCEST	CONCUR AS AMENDED		3/19
HB0052 MANUEL, REX	1/14	2/07	YOUTHS POSSESSING INTOXICATING SUBSTANCE; PARENTAL INTERFERENCE WITH ORDER	CONCUR AS AMENDED		2/11
HB0088 KEYSER, KERRY R.	1/22	1/30	AUTHORITY OVER AND POWERS OF PEACE OFFICER HELPING ANOTHER JURISDICTION	CONCUR		1/31
HB0095 RAMIREZ, JACK	3/05	3/18	LIMITING TIME WHEN BAD FAITH ACTION AGAINST INSURER CAN BE COMMENCED	CONCUR AS AMENDED		3/23
HB0103 BROWN, DAVE	1/22	2/07	2/11 REVISE YOUTH COURT JURISDICTION - YOUTH HOMICIDE TRIABLE IN DISTRICT COURT	CONCUR AS AMENDED		2/12
HB0106 CONNELLY, MARY ELLEN	1/18	2/06	PROHIBITING ASSIGNMENT OF CERTAIN RETIRED JUDGES FOR TEMPORARY SERVICE	ADVERSE REPORT		2/12
HB0109 SCHYE, TED	1/14	1/29	REMOVE STATUORY CONFLICT ON CHARGING COSTS TO CONVICTED DEFENDANTS	ADVERSE REPORT		1/31
HB0155 HARPER, HAL	1/22	3/15	3/15 DECLARES A FELONY TO CAUSE OR ALLOW THE FIGHTING OF ANIMALS FOR SPORT	CONCUR AS AMENDED		3/21
HB0164 BRADLEY, DOROTHY	2/22	3/05	REQUIRE 180 DAYS' NOTICE TO VACATE MOBILE HOME RENTAL SPACE	ADVERSE REPORT		3/5
HB0181 REAM, BOB	1/22	3/12	COLLECTION OF CIVIL AND CRIMINAL PENALTY FOR HAZARDOUS WASTE VIOLATION	CONCUR		3/12

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 30, 1985

The seventeenth meeting of the Senate Judiciary Committee was called to order at 10:05 a.m. on January 30, 1985, by Chairman Joe Mazurek in Rooms 413-415 of the Capitol Building.

ROLL CALL: All committee members were present, with the exception of Senator Kermit Daniels, who was excused.

CONSIDERATION OF HB 88: Representative Kerry Keyser, sponsor of HB 88, introduced the bill. He stated this is an act that provides while a peace officer is in another jurisdiction that has requested his assistance, he is under the authority of the requesting entity. There has been some question in a couple of instances where the city was requesting the sheriff to come in for some assistance as to whether if something happened and there was some liability, who would be responsible.

PROPONENTS: Clayton Bain testified in support of HB 88. If a sheriff were requesting the assistance of another sheriff in that jurisdiction, he wondered if the Mutual Assistance Act came into play. To specify that, they wrote in the language in this bill. The other question was under whose authority was he acting. The bill just clarifies the language.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Towe asked Representative Keyser to explain, from a practical standpoint, how this bill works. Representative Keyser said if the city is having a lot of trouble, they call the sheriff. The sheriff then goes into that area. The city would then become the entity that has called you, and if there is some liability, the city would become the responsible party. Senator Towe asked what officer calls in the help. Representative Keyser stated it could be anyone. Senator Towe asked if it could be a line officer and, if so, was Representative Keyser comfortable with that language. Representative Keyser responded he was comfortable with the supervision taken out and just the authority left in. Senator Mazurek asked if he discussed whether the removal of that supervision might raise a question of liability. Representative Keyser responded it was discussed, but they did not feel they were taking anything away by taking the supervision out and not the liability. Somebody has to be in charge.

CLOSING STATEMENT: None.

Hearing on HB 88 was closed.

CONSIDERATION OF SB 152 AND SB 153: Chairman Mazurek stated the hearings on SB 152 and SB 153 would be held simultaneously since the bills were similar and on the same topic. Senator Bob Brown, sponsor of both bills, stated neither bill is very complex in terms of what it does, but the impact of the bills might be great. On SB 152, the change occurs on page 1, section 1, where we establish a presumption be made in favor of joint custody in cases of divorce. Senator Brown related statistics which were presented to him indicate 70% of the child support payments in the United States are in arrears or are not being made, but in cases of joint custody, the child support payments are much better. The way it is now, we start with the presumption joint custody is in the best interests of the child. He believes when practical, the time allotment should be equal. SB 153 changes the burden of proof as it is in the existing law for temporary custody. Again, we start with the joint custody concept.

PROPONENTS: Douglas E. Grob, a member of the Governor's Commission on Child Support Enforcement Council from Kalispell, presented testimony in support of the bills (see Exhibit 1). He stated child support is a new concept, and the research data is just starting to come in on it. He believes the right to joint custody is fundamental and can be overridden only if there is a chance of harm. Mr. Grob questioned why if you have equality of parenting in the beginning and that is what they share at the time of divorce, why we granted the state the right to interrupt that at divorce. He believes the right is so basic or essential, the state must have a compelling interest to override it. His statistics indicated there is a 72% default rate on child support payments when the father is not involved and 6-7% when he is. He believes there has to be a fair sense of physical custody and not just joint custody. He stated the critical issue here is the right of Montana's children to deal with both of their parents. He does not believe a good relationship between husband and wife is necessary to good joint custody. In Montana, the main reason joint custody is not handed down by the judge is because the mother does not want joint custody. If the judge presumes joint custody, then you must prove tp tje cpirt that either parent can be harmful. People do not tend to be cooperative in divorce. Gary Boe from Kalispell appeared in support of the bills. He is a joint custody father. At the present time, his child spends an equal amount of time with both parents. His child lives 1,000 miles away and goes to school here half the time and there half the time. His child has a good scholastic aptitude. He is doing very well in school and is very well adjusted. He loves both parents. Mr. Boe stated he is an excellent citizen who was becoming a disenfranchised father, but he had to sell the court on the fact he was

STANDING COMMITTEE REPORT

January 31 19 35

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 53

third reading copy (blue color)

(SENATOR SHAW)

AUTHORITY OVER AND POWERS OF PEACE OFFICER HELPING ANOTHER JURISDICTION.

Respectfully report as follows: That HOUSE BILL No. 53

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Joe Mazurek Chairman.

16

HOUSE BILL NO. 88

INTRODUCED BY KEYSER

BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT WHILE A PEACE OFFICER IS IN ANOTHER JURISDICTION WHICH HAS REQUESTED HIS ASSISTANCE HE IS UNDER THE AUTHORITY OF THE ENTITY REQUESTING HIS ASSISTANCE ~~AND MAY ACT AS IF HE WERE A PEACE OFFICER OF THAT ENTITY~~; AMENDING SECTION 44-11-101, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-11-101, MCA, is amended to read:

"44-11-101. Mutual assistance authorized -- powers and duties of assisting officers. A peace officer or any law enforcement entity of any county or municipality or a state government law enforcement entity may request the assistance of a peace officer from another law enforcement entity within the state of Montana. A peace officer, while in the jurisdiction of the requesting officer or entity and while on such request for assistance, has the same powers, duties, rights, privileges, and immunities as a peace officer of the requesting entity, AND is under the authority and supervision of the requesting officer or entity~~, and may act as though he were a duly appointed and qualified peace officer of the entity he is assisting~~."

-End-

Montana Legislative Council

REFERENCE BILL
HB 88